

APPEAL NO. 040719  
FILED MAY 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 17, 2004. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) did not have disability resulting from an injury sustained on \_\_\_\_\_, beginning October 28, 2003, and continuing through February 22, 2004, and beginning March 4, 2004, and continuing through the date of the CCH. The claimant appeals the determination on the disability issue and also incorrectly states that the hearing officer found that the claimant did not sustain an injury on the job. The respondent (carrier) asserts that the hearing officer's decision on the disability issue is supported by the evidence and also incorrectly states that the claimant did not appeal the determination on the disability issue.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_, and that the injury does not include the thoracic spine. Contrary to the claimant's assertion, the hearing officer did not find that the claimant did not sustain an injury on the job. Contrary to the carrier's assertion, the claimant did appeal the disability determination. The sole issue at the CCH was "Did the Claimant have disability from October 28, 2003 through February 22, 2004 and from March 4, 2004 to the present resulting from the injury sustained on \_\_\_\_\_?" Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant had the burden to prove that she had disability. The hearing officer found that the claimant failed to prove that she had disability for the time periods in issue. Conflicting evidence was presented on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Edward Vilano  
Appeals Judge